

Minneapolis City Planning Department Report

Waiver From Moratorium Application (BZZ - 897)

Date: October 29, 2002

Applicant: Glenn Toby

Date Application Deemed Complete: October 11, 2002

End of 60 Day Decision Period: December 10, 2002

Address Of Property: 1808 West Broadway Avenue

Contact Person And Phone: Glenn Toby 763-529-9022

Planning Staff And Phone: Jim Voll 612-673-3887

Ward: 3 **Neighborhood Organization:** Jordan Area Community Council (JACC)
West Broadway Area Coalition (WBAC)

Existing Zoning: C1 Neighborhood Commercial District

Reason For Waiver: To allow the use of the building at 1808 West Broadway for a retail store selling beauty supplies in the West Broadway moratorium area, Chapter 576.

Background: Currently there is a moratorium on the establishment, reestablishment, or expansion of any commercial or industrial uses along West Broadway Avenue from the city limits on the west to the intersection of West Broadway and Girard Avenue North on the east. The property at 1808 West Broadway is a vacant commercial building on a very small site. It was most recently used as a small grocery store. The applicant proposes to utilize the building for a beauty supplies store that sells to individuals and suppliers. There is debris scattered about the site that is required to be cleaned up by the owner.

Neighborhood Review: The applicant met with the West Broadway Area Coalition (WBAC) on June 12, 2002. The WBAC voted 5-0 to approve the waiver request. Please see attached letter. The Jordan Area Community Council has not reviewed this application.

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Findings:

Section 529.50 of the Minneapolis Code states that, “a waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purpose for which the interim ordinance is enacted.”

Hardship: The moratorium does not allow the establishment or reestablishment of any commercial use in the moratorium area. Unless a waiver is granted the building will have to remain empty until the moratorium ends. The applicant considers this a hardship.

Interference with the objectives of the moratorium: The moratorium was enacted to allow the completion of a corridor study by the West Broadway Area Coalition and to allow the city to complete a 40-acre study. The corridor study has been completed, but has not yet been adopted by the City Council. It indicates this area of West Broadway as a parkway and green corridor with viable residential along West Broadway anchored by small commercial and cultural nodes. The 40-acre study has been completed, but has not been approved by the Planning Commission and the City Council. The study will be before the Planning Commission on October 21, 2002 (before the Z&P hearing, but after the writing of this report). The 40-acre study proposes rezoning this parcel and the entire block face in this area to the R5 Multi-family District from the C1 Neighborhood Commercial District to reflect the goal of encouraging residential development in this area. If the City Council approves the 40-acre study and rezones this parcel to R5, then the building would become a legal nonconforming use.

The site is currently zoned C1 Neighborhood commercial District. A retail beauty supply store is a permitted use in the C1 District. If there were no moratorium in this area the proposed use could locate in this building as of right and no public hearing would be required. If the site is rezoned to the R5 Multi-family District as a part of the adoption of the 40-acre study then it would become legally non-conforming. To locate a commercial use in the building would require a change in nonconforming use permit. While at this point a change in nonconforming use is not necessary, using the criteria for a change will indicate if locating this business in the building would violate the intent of the objectives of the moratorium. If the City could make the findings to grant a change in nonconforming use then granting the moratorium would not interfere with the goals of the moratorium, but if the findings can not be made then a waiver should not be granted. Staff uses the following criteria to determine if a change in nonconforming use should be granted:

The Planning Commission may approve a proposed change in use if the use meets the following standards as specified in section 531.80 of the Zoning Code:

(1) The proposed use is compatible with adjacent property and the neighborhood.

The surrounding area is predominantly residential to the north, east, and west. There are commercial uses to the south along West Broadway. In general, retail is one of the least intensive commercial uses allowed

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in the commercial districts. If the site is to be used for commercial use, then retail or office use would probably be the most compatible with residential uses.

(2) The proposed use is less intense than the existing, nonconforming use.

(a) Hours of operation: The previous use, a grocery store, was open from 8:00 a.m. to 10:00 p.m. Monday through Friday and from 8:00 a.m. to 9:00 p.m. Saturday and Sunday. The proposed use will be open from 9:00 a.m. to 8:00 p.m. Monday through Saturday (until 6:00 p.m. in the winter). The beauty store will be open fewer hours than the previous use.

(b) Signage: The applicant proposes to have signage of similar size to the previous use.

(c) Traffic generation and safety: The applicant could not determine the traffic generation for the previous use. He estimates that he will have about 90 customers a week, which should be significantly less than what the typical grocery store would be expected to have coming to the site on a daily basis.

(d) Off-street parking and loading: The previous use and the proposed use both have a parking requirement of 4 spaces. The site has room for four parking spaces, but it is difficult to come up with a layout that meets the requirements of the zoning code. There will be no change in the parking required or provided.

(e) Nature of business operations: The previous use was a grocery store and the proposed use will be retail. Typically a grocery store is a more intense commercial use than a retail store.

(f) Number of employees: The previous use had one employee on site and the proposed use will have two employees. This should not be a significant change.

(g) Building Bulk: No change to the size of the building is proposed.

(h) Aesthetic impacts on surrounding property: The applicant will clean up the site and add the required landscaping, so the aesthetics of the site should be improved.

(i) Noise, odor, heat, glare and vibration: The previous and proposed use generate little noticeable glare, heat, or vibration, or noise beyond that of vehicles coming and going from the site.

(3) The proposed use is consistent with the applicable policies of the comprehensive plan?

Policy 4.4 of the Marketplaces: Neighborhoods chapter of the Minneapolis Plan indicates that Minneapolis will continue to provide a wide range of goods and services to city residents to encourage the use and adaptive re-use of existing commercial buildings.

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Since the proposed use will be less intensive than the previous use, a finding can be made that a change in nonconforming use could be granted. Therefore, granting the waiver should not interfere with the objectives of the moratorium.

Recommendation of The City Planning Department:

The City Planning Department recommends that the City Council adopt the above findings and **approve** the waiver application for property located at 1808 West Broadway subject to the following conditions:

- 1) All outside storage of tires, pallets, garbage, cinder blocks, or any item prohibited by the zoning code shall be removed from the site.
- 2) The sign on the front of the building shall be repaired to meet the requirements of the zoning code. All new signage requires a permit from the zoning office.
- 3) The damaged sign standard at the northwesterly corner of the site near the sidewalk shall be removed.
- 4) Landscaping shall be provided in the planter boxes at the front of the site per the requirements of the zoning code.
- 5) If the site is rezoned residential any future change in use shall be reviewed by the zoning office to determine if a change in nonconforming use permit is required.